

Executive Summary – Enforcement Matter – Case No. 47949

City of Rosebud

RN101392322

Docket No. 2013-2088-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

PWS

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Rosebud PWS, 716 North Stallworth Street, Falls County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: March 14, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$486

Amount Deferred for Expedited Settlement: \$486

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: October 14, 2013

Date(s) of NOE(s): October 30, 2013

Executive Summary – Enforcement Matter – Case No. 47949
City of Rosebud
RN101392322
Docket No. 2013-2088-PWS-E

Violation Information

1. Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM") based on a locational running annual average [30 TEX. ADMIN. CODE § 290.115(f)(1) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].
2. Failed to comply with the MCL of 0.06 mg/L for haloacetic acids ("HAA5") based on a locational running annual average [30 TEX. ADMIN. CODE § 290.115(f)(1) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Within 365 days:
 - i. Return to compliance with the MCL for TTHM; and
 - ii. Return to compliance with the MCL for HAA5.
- b. Within 380 days, submit written certification to demonstrate compliance with Ordering Provision a.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Executive Summary – Enforcement Matter – Case No. 47949
City of Rosebud
RN101392322
Docket No. 2013-2088-PWS-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Michaelle Garza, Enforcement Division,
Enforcement Team 2, MC R-13, (210) 403-4076; Candy Garrett, Enforcement Division,
MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: The Honorable Larry G. Boone, Mayor, City of Rosebud, P.O. Box 657,
Rosebud, Texas 76570

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned PCW	4-Nov-2013	Screening	15-Nov-2013	EPA Due	30-Jun-2013
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RESPONDENT/FACILITY INFORMATION

Respondent	City of Rosebud		
Reg. Ent. Ref. No.	RN101392322		
Facility/Site Region	9-Waco	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	47949	No. of Violations	2
Docket No.	2013-2088-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Michaelle Garza
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$300

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **62.0%** Enhancement **Subtotals 2, 3, & 7** \$186

Notes: Enhancement for three NOV's with same/similar violations, one NOV with dissimilar violations, one order with a denial of liability, and one order without a denial of liability.

Culpability **No** **0.0%** Enhancement **Subtotal 4** \$0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** \$0

Economic Benefit **0.0%** Enhancement* **Subtotal 6** \$0

Total EB Amounts \$904
Approx. Cost of Compliance \$5,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$486

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$486

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$486

DEFERRAL **0.0%** Reduction **Adjustment** \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY \$486

Screening Date 15-Nov-2013

Docket No. 2013-2088-PWS-E

PCW

Respondent City of Rosebud

Policy Revision 3 (September 2011)

Case ID No. 47949

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101392322

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Garza

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	3	15%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 62%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for three NOVs with same/similar violations, one NOV with dissimilar violations, one order with a denial of liability, and one order without a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 62%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 62%

Screening Date 15-Nov-2013

Docket No. 2013-2088-PWS-E

PCW

Respondent City of Rosebud

Policy Revision 3 (September 2011)

Case ID No. 47949

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101392322

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Garza

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 290.115(f)(1) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM"), based on a locational running annual average. Specifically, the locational running annual average concentrations of TTHM for Stage 2 Disinfection Byproducts ("DBP2") at Site 2 were 0.097 mg/L for the third quarter of 2012, 0.117 mg/L for the fourth quarter of 2012, 0.126 mg/L for the first quarter of 2013, and 0.126 mg/L for the second quarter of 2013.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Exceeding the MCL for TTHM based on the locational running annual average has exposed customers of the Facility to a significant amount of contaminants which do not exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 1

364 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$150

One annual event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$904

Violation Final Penalty Total \$243

This violation Final Assessed Penalty (adjusted for limits) \$243

Economic Benefit Worksheet

Respondent City of Rosebud
Case ID No. 47949
Reg. Ent. Reference No. RN101392322
Media Public Water Supply
Violation No. 1

Percent Interest 5.0
Years of Depreciation 15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$5,000	30-Sep-2012	1-May-2015	2.58	\$43	\$861	\$904
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount necessary to implement an alternative method of disinfection, calculated from the last day of the first quarter of noncompliance to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$904

Screening Date 15-Nov-2013

Docket No. 2013-2088-PWS-E

PCW

Respondent City of Rosebud

Policy Revision 3 (September 2011)

Case ID No. 47949

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101392322

Media [Statute] Public Water Supply

Enf. Coordinator Michaelle Garza

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 290.115(f)(1) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to comply with the MCL of 0.06 mg/L for haloacetic acids ("HAA5"), based on a locational running annual average. Specifically, the locational running annual average concentrations of HAA5 for DBP2 at Site 1 were 0.065 mg/L for the first quarter of 2013 and 0.064 mg/L for the second quarter of 2013.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Exceeding the MCL for HAA5 based on the locational running annual average has exposed customers of the Facility to a significant amount of contaminants which do not exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 1

180 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	X
	single event	

Violation Base Penalty \$150

One annual event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$243

This violation Final Assessed Penalty (adjusted for limits) \$243

Economic Benefit Worksheet

Respondent City of Rosebud
Case ID No. 47949
Reg. Ent. Reference No. RN101392322
Media Public Water Supply
Violation No. 2

Percent Interest 5.0
Years of Depreciation 15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost is included in the economic benefit associated with violation no. 1.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

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TCEQ Compliance History Report

PENDING Compliance History Report for CN600241574, RN101392322, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

Customer, Respondent, or Owner/Operator: CN600241574, City of Rosebud **Classification:** SATISFACTORY **Rating:** 22.50

Regulated Entity: RN101392322, CITY OF ROSEBUD **Classification:** NOT APPLICABLE **Rating:** N/A

Complexity Points: N/A **Repeat Violator:** N/A

CH Group: 14 - Other

Location: 716 NORTH STALLWORTH STREET, FALLS COUNTY, TEXAS

TCEQ Region: REGION 09 - WACO

ID Number(s):

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0730003 **WATER LICENSING LICENSE** 0730003

Compliance History Period: September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

Date Compliance History Report Prepared: November 15, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: November 15, 2008 to November 15, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Michaelle Garza

Phone: (210) 403-4076

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

1 Effective Date: 08/27/2011 ADMINORDER 2011-0136-PWS-E (1660 Order-Agreed Order With Denial)

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(1)(B)

Description: Failure to collect distribution coliform samples at locations specified in the system's monitoring plan.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)

Description: Failed to complete a customer service inspection certificate prior to providing continuous service to new construction, or any existing service either when the water purveyor has reason to believe that cross-connections or other potential contaminant hazards exist, or after any material improvement, correction, or addition to the Facility.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(A)

Description: Failed to install backflow prevention assemblies or an air gap at all residences or establishments where an actual or potential contamination hazard exists, as identified in 30 TEX. ADMIN. CODE § 290.47(i).

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.45(f)(4)

Description: Failure to provide a water purchase contract that authorizes a maximum daily purchase rate or a uniform purchase rate to meet a minimum production capacity of 0.6 gallons per minute per connection.

Effective Date: 02/10/2013

ADMINORDER 2012-1106-PWS-E (Findings Order-Agreed Order Without Denial)

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(5)

30 TAC Chapter 290, SubChapter F 290.109(f)(7)

5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR Routine Monitoring Violation 12/2010 - Failure to collect any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(5)

30 TAC Chapter 290, SubChapter F 290.109(f)(7)

5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR Routine Monitoring Violation 02/2011 - Failure to collect any routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(5)

30 TAC Chapter 290, SubChapter F 290.109(f)(7)

5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR Routine Monitoring Violation 05/2011 - Failure to collect all routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(5)

30 TAC Chapter 290, SubChapter F 290.109(f)(7)

5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR Routine Monitoring Violation 06/2011 - Failure to collect all routine monitoring sample(s).

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)

5A THSC Chapter 341, SubChapter A 341.033(d)

Description: TCR MCL Violation 11/2011 - System exceeded a maximum contaminant level.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)

Description: TCR Increase Monitoring Violation 12/2011 - Failure to collect all of the 5 distribution samples following a coliform found month.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)

30 TAC Chapter 290, SubChapter F 290.122(f)

5A THSC Chapter 341, SubChapter A 341.033(d)

Description: NOV/2011 TCR MCL Monitoring PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct coliform monitoring for the month of 11/2011.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)

30 TAC Chapter 290, SubChapter F 290.122(f)

5A THSC Chapter 341, SubChapter A 341.033(d)

Description: DEC/2011 TCR Increase Monitoring PN Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for failing to conduct coliform monitoring for the month of 12/2011.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1

Date: 11/19/2012 (1124799)

CN600241574

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)

Description: TTHM LRAA MCL 3Q2012 - The system violated the maximum contaminant level for trihalomethanes during the 3rd quarter of 2012 with a LRAA of 0.097 mg/L at

- 2 Date: 01/08/2013 (1030308) CN600241574
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(1)(B)
 Description: Failure to collect routine coliform samples from locations specified in the system's chemical and microbiological monitoring plan.
- Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)
 30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(iv)
 Description: Failed to make water works operation and maintenance records available for review by Commission personnel during the investigation. Specifically, it was documented that records of American National Standards Institute/National Sanitation Foundation ("ANSI/NSF") certification for the calcium hypochlorite and accuracy checks for the manual disinfectant residual analyzer were not available for review.
- Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(3)(G)
 Description: Failed to obtain an exception, in accordance with 30 Tex. Admin. Code § 290.39(l), prior to using any primary disinfectant other than chlorine. Specifically, the Respondent purchases chloraminated water from Central Texas Water Supply Corporation which is then supplied to the Respondent's customers without having obtained an exception to the rule requirement.
- Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(4)
 Description: Failed to ensure that all backflow prevention assemblies are tested upon installation by a recognized backflow prevention assembly tester and certified to be operating within specifications. Specifically, the car wash located at the intersection of Highway 77 and Main Street in Rosebud had a backflow prevention device installed on October 9, 2012, but it was not tested upon installation.
- Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(w)
 Description: Failed to maintain internal procedures to notify the Executive Director by a toll-free reporting phone number immediately following certain events if the event may negatively impact the production or delivery of safe and adequate drinking water. Specifically, the Respondent did not include the five events that may negatively impact the water and the TCEQ Homeland Security toll-free number in the internal procedures developed to notify the Executive Director.
- 3 Date: 01/29/2013 (1124799) CN600241574
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
 Description: TTHM LRAA MCL 4Q2012 - The system violated the maximum contaminant level for trihalomethanes during the 4th quarter of 2012 with a LRAA of 0.117 mg/L at 524 S Linden (DBP2-02).
- 4 Date: 04/22/2013 (1124799) CN600241574
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
 Description: TTHM LRAA MCL 1Q2013 - The system violated the maximum contaminant level for trihalomethanes during the 1st quarter of 2013 with a LRAA of 0.126 mg/L at 524 S Linden (DBP2-02).
- Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
 Description: HAA5 LRAA MCL 1Q2013 - The system violated the maximum contaminant level for haloacetic acids during the 1st quarter of 2013 with a LRAA of 0.065 mg/L at Pump Station (DBP2-01).

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

Component Appendices

Appendix A

All NOVs Issued During Component Period 11/15/2008 and 11/15/2013

- 1 Date: 03/13/2009 (736156) CN600241574
Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(A)
Description: Failure to provide a backflow prevention assembly where one is required to protect against a high health hazard.
- 2 Date: 11/30/2009 (781557) CN600241574
Classification: Minor
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter F 290.121(a)
Description: Failure to provide an adequate monitoring plan at the time of the investigation.
Classification: Minor
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(1)(B)
Description: Failure to collect distribution coliform samples at locations specified in the system's monitoring plan.
Classification: Minor
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)
Description: Failure to provide annual tank inspection forms during the investigation.
Classification: Minor
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter D 290.46(j)
Description: Failed to complete a customer service inspection certificate prior to providing continuous service to new construction, or any existing service either when the water purveyor has reason to believe that cross-connections or other potential contaminant hazards exist, or after any material improvement, correction, or addition to the Facility.
Classification: Minor
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(A)
Description: Failed to install backflow prevention assemblies or an air gap at all residences or establishments where an actual or potential contamination hazard exists, as identified in 30 TEX. ADMIN. CODE § 290.47(i).
Classification: Minor
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter D 290.42(l)
Description: Failure to provide a complete plant operations manual at the time of the investigation.
Classification: Minor
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(4)(C)
Description: Failure to provide a screen on the upper level vent in the disinfection room at the main plant of the City of Rosebud public water supply.
Classification: Minor
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(3)(G)
Description: Failure to obtain an exception to use liquid ammonia sulfate as an alternative disinfectant for a purchase-water system; and for purchasing chloraminated water from Central Texas WSC.
Classification: Minor
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter D 290.45(f)(4)
Description: Failure to provide a water purchase contract that authorizes a maximum daily purchase rate or a uniform purchase rate to meet a minimum production capacity of 0.6 gallons per minute per connection.

- 3 Date: 02/11/2011 (1002389) CN600241574
Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
30 TAC Chapter 290, SubChapter F 290.109(f)(7)
5A THSC Chapter 341, SubChapter A 341.033(d)
Description: TCR Routine Monitoring Violation 12/2010 - Failure to collect any routine monitoring sample(s).
- 4 Date: 03/31/2011 (1002514) CN600241574
Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
30 TAC Chapter 290, SubChapter F 290.109(f)(7)
5A THSC Chapter 341, SubChapter A 341.033(d)
Description: TCR Routine Monitoring Violation 02/2011 - Failure to collect any routine monitoring sample(s).
- 5 Date: 07/07/2011 (1002544) CN600241574
Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
30 TAC Chapter 290, SubChapter F 290.109(f)(7)
5A THSC Chapter 341, SubChapter A 341.033(d)
Description: TCR Routine Monitoring Violation 05/2011 - Failure to collect all routine monitoring sample(s).
- 6 Date: 08/26/2011 (1002568) CN600241574
Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
30 TAC Chapter 290, SubChapter F 290.109(f)(7)
5A THSC Chapter 341, SubChapter A 341.033(d)
Description: TCR Routine Monitoring Violation 06/2011 - Failure to collect all routine monitoring sample(s).
- 7 Date: 11/07/2011 (1002580) CN600241574
Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
5A THSC Chapter 341, SubChapter A 341.033(d)
Description: TCR MCL Violation 11/2011 - System exceeded a maximum contaminant level.
- 8 Date: 03/15/2012 (1002586) CN600241574
Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)
Description: TCR Increase Monitoring Violation 12/2011 - Failure to collect all of the 5 distribution samples following a coliform found month.
- 9* Date: 11/19/2012 (1124799) CN600241574
Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
Description: TTHM LRAA MCL 3Q2012 - The system violated the maximum contaminant level for trihalomethanes during the 3rd quarter of 2012 with a LRAA of 0.097 mg/L at 524 S Linden (DBP2-02).
- 10* Date: 01/08/2013 (1030308) CN600241574
Classification: Minor

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(1)(B)
Description: Failure to collect routine coliform samples from locations specified in the system's chemical and microbiological monitoring plan.

Classification: Minor

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter D 290.46(f)(2)
30 TAC Chapter 290, SubChapter D 290.46(f)(3)(B)(iv)
Description: Failed to make water works operation and maintenance records available for review by Commission personnel during the investigation. Specifically, it was documented that records of American National Standards Institute/National Sanitation Foundation ("ANSI/NSF") certification for the calcium hypochlorite and accuracy checks for the manual disinfectant residual analyzer were not available for review.

Classification: Moderate

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter D 290.42(e)(3)(G)
Description: Failed to obtain an exception, in accordance with 30 Tex. Admin. Code § 290.39(l), prior to using any primary disinfectant other than chlorine. Specifically, the Respondent purchases chloraminated water from Central Texas Water Supply Corporation which is then supplied to the Respondent's customers without having obtained an exception to the rule requirement.

Classification: Moderate

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(4)
Description: Failed to ensure that all backflow prevention assemblies are tested upon installation by a recognized backflow prevention assembly tester and certified to be operating within specifications. Specifically, the car wash located at the intersection of Highway 77 and Main Street in Rosebud had a backflow prevention device installed on October 9, 2012, but it was not tested upon installation.

Classification: Minor

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter D 290.46(w)
Description: Failed to maintain internal procedures to notify the Executive Director by a toll-free reporting phone number immediately following certain events if the event may negatively impact the production or delivery of safe and adequate drinking water. Specifically, the Respondent did not include the five events that may negatively impact the water and the TCEQ Homeland Security toll-free number in

the internal procedures developed to notify the Executive Director.

11* Date: 01/29/2013 (1124799) CN600241574

Classification: Moderate

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
Description: TTHM LRAA MCL 4Q2012 - The system violated the maximum contaminant level for trihalomethanes during the 4th quarter of 2012 with a LRAA of 0.117 mg/L at 524 S Linden (DBP2-02).

12* Date: 04/22/2013 (1124799) CN600241574

Classification: Moderate

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
Description: TTHM LRAA MCL 1Q2013 - The system violated the maximum contaminant level for trihalomethanes during the 1st quarter of 2013 with a LRAA of 0.126 mg/L at 524 S Linden (DBP2-02).

Classification: Moderate

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 290, SubChapter F 290.115(f)(1)
Description: HAA5 LRAA MCL 1Q2013 - The system violated the maximum contaminant level for haloacetic acids during the 1st quarter of 2013 with a LRAA of 0.065 mg/L at Pump Station (DBP2-01).

* NOV's applicable for the Compliance History rating period 9/1/2008 to 8/31/2013

Appendix B**All Investigations Conducted During Component Period November 15, 2008 and November 15, 2013**

Item 1	March 12, 2009**	(736156) For Informational Purposes Only
Item 2	November 23, 2009**	(781557) For Informational Purposes Only
Item 3	March 25, 2010**	(789470) For Informational Purposes Only
Item 4	June 16, 2010**	(801182) For Informational Purposes Only
Item 5	November 02, 2010**	(871548) For Informational Purposes Only
Item 6	January 11, 2011**	(880618) For Informational Purposes Only
Item 7	May 02, 2012**	(1002389) For Informational Purposes Only
Item 8	May 03, 2012**	(1002514) For Informational Purposes Only
Item 9	May 17, 2012**	(1002756) For Informational Purposes Only
Item 10	January 03, 2013**	(1030308) For Informational Purposes Only
Item 11	April 04, 2013**	(1075286) For Informational Purposes Only
Item 12	July 09, 2013**	(1099975) For Informational Purposes Only
Item 13	September 13, 2013	(1117075) For Informational Purposes Only
Item 14	October 25, 2013	(1124799) For Informational Purposes Only
Item 15	November 01, 2013	(1128080) For Informational Purposes Only

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2008 and 08/31/2013.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF ROSEBUD
RN101392322**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2013-2088-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Rosebud (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply at 716 North Stallworth Street in Falls County, Texas (the "Facility") that has approximately 711 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted on October 14, 2013, TCEQ staff documented that the locational running annual average concentrations of total trihalomethanes ("TTHM") for Stage 2 Disinfection Byproducts ("DBP2") at Site 2 were 0.097 milligrams per liter ("mg/L") for the third quarter of 2012, 0.117 mg/L for the fourth quarter of 2012, 0.126 mg/L for the first quarter of 2013, and 0.126 mg/L for the second quarter of 2013.
3. During a record review conducted on October 14, 2013, TCEQ staff documented that the locational running annual average concentrations of haloacetic acids ("HAA5") for DBP2 at Site 1 were 0.065 mg/L for the first quarter of 2013 and 0.064 mg/L for the second quarter of 2013.
4. The Respondent received notice of the violations on November 4, 2013.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to comply with the maximum contaminant level ("MCL") of 0.080 mg/L for TTHM, based on a locational running annual average, in violation of 30 TEX. ADMIN. CODE § 290.115(f)(1) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with the MCL of 0.06 mg/L for HAA5, based on a locational running annual average, in violation of 30 TEX. ADMIN. CODE § 290.115(f)(1) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of Four Hundred Eighty-Six Dollars (\$486) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). Four Hundred Eighty-Six Dollars (\$486) of the administrative penalty is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order and shall be waived only upon full compliance with all the the terms and conditions contained in this Agreed Order. If the Respondent fails to timely and satisfactorily comply with any requirement contained in this Agreed Order, the deferred amount of the administrative penalty shall become immediately due and payable without demand or notice, and the Executive Director may request the Respondent to pay all or part of the deferred administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Four Hundred Eighty-Six Dollars (\$486) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Rosebud, Docket No. 2013-2088-PWS-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
 - a. Within 365 days after the effective date of this Agreed Order:
 - i. Return to compliance with the MCL for TTHM, in accordance with 30 TEX. ADMIN. CODE § 290.115;
 - ii. Return to compliance with the MCL for HAA5, in accordance with 30 TEX. ADMIN. CODE § 290.115;
 - b. Within 380 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Public Drinking Water Section Manager
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission,

including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

5/26/14

Date

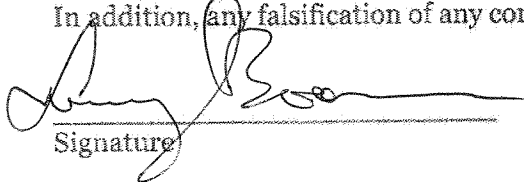
I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Rosebud. I am authorized to agree to the attached Agreed Order on behalf of the City of Rosebud, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, the City of Rosebud waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions;
- and
- TCEO seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

4 February, 2014

Date

LARRY G. BOONE

Name (Printed or typed)

Authorized Representative of
City of Rosebud

Mayor

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.